IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3842 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

YOGESH NATVERLAL PATEL

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 3842 of 1989

MR KS ZAVERI FOR MR MR ANAND for Petitioners No. 1-2

MR HD DAVE ASSTT GOVT PLEADER for Respondent No. 1

MR GN SHAH for Respondents No. 2-3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/02/2002

ORAL JUDGEMENT

#. Heard Mr.K.S.Zaveri, learned advocate appearing on behalf of the petitioner and Mr.H.D.Dave, learned AGP for respondent No.1. Mr.G.N.Shah, learned advocate appears

for respondent Nos.2 & 3. None remained present on behalf of the Official Liquidator.

#. This is a petition filed by the petitioner with grievance that the Labour Court and the Payment of Wages Authority, Ahmedabad has passed order in Payment of Wages Applications Nos.200/1989 and 224/89 against the respondent Nos.2 & 3 directing to recover the amount from the respondent No.2 & 3 and they should pay said amount to the petitioner. Thereafter, second orders came to be passed by the Labour Court and Payment of Wages Authority, Ahmedabad in above referred applications on 5th April, 1989 directing the respondent Nos.2 and 3 to pay the amounts stated therein within 30 days. Thereafter, on 19th April, 1989, earlier two orders dated 5th April, 1989 were modified and accordingly, the respondent Nos.2 & 3 were directed to pay the amount as directed earlier within period of seven days. However, in pursuance of the aforesaid orders passed by the Payment of Wages Authority, no payment was made by the respondent Nos.2 & 3 and therefore, petitioner approached the authority with necessary applications for issuance of the recovery certificates in favour of the Collector to recover the said amount in question under the provisions of the Bombay Land Revenue Code. Pursuant to said applications, the Payment of Wages Authority had issued Recovery Certificates below these two applications on dated 10th May, 1989 with direction to the District Collector to recover the said amount from the respondent Nos.2 and 3 in order to deposit the amount in question before the Payment of Wages Authority. Thereafter, the petitioner Union has approached the District Collector, Ahmedabad with written request dated 18th May, 1989 to recover the said amount and had also supplied details of the properties of the respondent Nos.2 & 3. But the grievance of the petitioner before this Court that no efforts have been made by the respondent No.1 Collector and therefore, the petitioner was constrained to approach this Court by way of present petition seeking appropriate directions on respondent No.1.

#. Leaned AGP Mr.H.D.Dave appearing on behalf of the respondent No.1 - Collector has submitted that initially some efforts were made by the respondent Collector. However, Mr.Dave, learned AGP has submitted that now the respondent No.3 Company is under liquidation and therefore, so far the question of recovering the amount from the respondent No.3 is concerned, the petitioner will have to approach the Official Liquidator. But Mr.Zaveri, learned advocate for petitioner has submitted that the respondent No.2 is a partnership firm and from

the property of the respondent No.2, whatever amount can be recovered, may be recovered by the respondent No.1 Collector. On the contrary, it is also his submission that the respondent Collector ought to have taken some steps to recover such amount as per the recovery certificate from the properties belong to the respondent Nos.2 & 3. However, Learned AGP Mr.H.D.Dave for respondent No.1 has submitted that now the respondent No.1 - Collector will take effective steps to recover the amount stated in the recovery certificates within some reasonable time.

#. Having regards to the submissions of the learned advocates for the parties, it is directed to the respondent No.1 - Collector to take effective steps immediately to implement both the Recovery Certificates dated 10th May, 1989 issued in favour of the Collector concerned. Simultaneously, it is also directed to the petitioner to furnish details so available with the petitioner in respect of the property of the respondents concerned to the District Collector within 15 days from the date of receipt of this order. One more aspect which requires to be clarified here that from 1989 upto date, if any property of the respondent Nos.2 & 3 have been sold to any other party and the amount is lying with the City Civil Court and / or any other authority, in that case, it is the duty of the respondent Collector to approach the respondent No.1 to approach the authority concerned by proper proceedings as the dues of the petitioner require to be recovered under the provisions of the Bombay Land Revenue Code. This exercise is expected to be completed by the respondent No.1 - Collector within period of three months from the date of receiving the copy of this order along with the details to be supplied by the petitioner as directed above by this Court.

In view of above observations and direction, present petition stands allowed accordingly. Rule is made absolute accordingly. Direct Service is permitted.

Date : 27-2-2002 [H.K.Rathod, J.]

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